

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JOSE CASTILLO-PARTIDA,

Petitioner,

v.

Case Number 02-20011-BC
Honorable David M. Lawson

UNITED STATES OF AMERICA,

Respondent.

_____ /

ORDER DENYING MOTION FOR CERTIFICATE OF APPEALABILITY

Petitioner Jose Castillo-Partida has filed a notice of appeal from this Court's denial of his motion to vacate sentence and a request for a certificate of appealability. A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Courts must either issue a certificate of appealability indicating which issues satisfy the required showing or provide reasons why such a certificate should not issue. 28 U.S.C. § 2253(c)(3); Fed. R. App. P. 22(b); *In Re Certificates of Appealability*, 106 F.3d 1306, 1307 (6th Cir. 1997). To receive a certificate of appealability, "a petitioner must show that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 123 S. Ct. 1029, 1039 (2003) (citations omitted).

The motion states the petitioner "made a substantial showing that he was deprived of his right to the effective assistance of counsel under the Sixth Amendment" and that he is entitled to an evidentiary hearing. For the reasons stated in this Court's Order denying the petitioner's motion to vacate sentence, these claims lack merit, and reasonable jurists would be unlikely to disagree with

the Court's finding that an evidentiary hearing was not warranted.

Accordingly, it is **ORDERED** that a certificate of appealability is **DENIED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: October 6, 2005

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on October 6, 2005.

s/Tracy A. Jacobs
TRACY A. JACOBS